

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 411

March 12, 2013

**SUMMARY OF BILL:** Establishes a Commission of Recommendation consisting of 10 members to review the constitutionality of federal laws, regulations, and executive orders. Requires the Commission to recommend and propose for a vote by the General Assembly to take actions when the Commission determines the existence of a potentially significant conflict between reviewed federal actions and the United States Constitution or the Tennessee Constitution. If the General Assembly votes to adopt a Commission recommendation, by a constitutional majority in both chambers, the General Assembly will direct legal counsel to immediately file suit to challenge the validity of a specific federal law, regulation, or executive order the General Assembly has deemed to be outside the scope of the powers delegated by the people to the federal government in the United States Constitution, or at odds with the Tennessee Constitution. Specifies the Commission will be supported by the staff of the Office of Legal Services. Authorizes the Commission members to be compensated for expenses. Requires the Commission to present its recommendations within 30 days of completing consideration of federal legislation.

Creates an offense for any official, agent, or employee of the United States government to enforce or attempt to enforce any federal law, order, rule, or regulation that has been declared by the General Assembly to be beyond the authority granted to the federal government pursuant to the United States Constitution. Violation is a felony and punishable by a fine not exceeding \$2,000. Any person in violation will also be prosecuted for kidnapping if an arrest or attempted arrest occurred, for criminal assault if an unreasonable personal search occurred, for trespass if a search or attempted search occurred, for theft if a seizure or attempted seizure occurred, and for any applicable homicide offense if loss of life occurred in connection with the violation. The persons involved will also be charged with any other applicable criminal offense. Specifies that a defendant under indictment for violation of this bill will not be entitled to the defenses of qualified immunity or "actions performed in good faith" if the official, agent, or employee of the United States government knew, or should have known, any actions named in this bill were performed under the color of laws, regulations, or executive orders previously declared by the General Assembly to be unconstitutional. Directs the Secretary of State to send a copy of this bill to the President of the United States, the President of the United States Senate, the Speaker and Clerk of the United States House of Representatives, and each member of the state's congressional delegation, with the request that this bill be officially entered into the Congressional Record.

## **ESTIMATED FISCAL IMPACT:**

### **Increase State Revenue – Not Significant**

### **Increase State Expenditures - \$2,000/Each One-Day Meeting**

#### Assumptions:

- All meetings of the Commission will be held in Nashville.
- Travel and per diem expenses for five legislative members of \$1,485 per meeting (\$173 per diem plus \$124 mileage for each member).
- Travel expenses for four non-legislative members of \$496 per meeting (\$124 mileage for each member).
- The Secretary of State will not received travel reimbursement to serve on the Commission.
- Total increase in travel and per diem of \$1,981 per meeting (\$1,485 + \$496).
- Any increase in the workload of the Office of Legal Services to provide support to the Commission can be handled within existing resources.
- According to the Department of Correction, the proposed bill will not have a fiscal impact to the Department.
- According to the District Public Defenders Conference, the proposed bill will not influence the caseload or plea negotiations of the Conference.
- Any increase in caseloads for the District Attorney Generals Conference can be accommodated within existing resources.
- Estimate assumes few, if any, fines will be assessed or collected as a result of this bill; therefore, the increase to state revenue is not significant.
- Any increase in state expenditures to prepare a copy of this resolution is estimated to be not significant.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc